

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

**DARREN L. BUNCH, and
MANDY BUNCH,**

Plaintiffs,

v.

**THE TRAVELERS INDEMNITY
COMPANY OF CONNECTICUT,**

Defendant.

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Case No. 4:18-cv-00439-BP

**REPLY IN SUPPORT OF DEFENDANT’S MOTION TO STRIKE
PLAINTIFFS’ RULE 26(a)(2) EXPERT DISCLOSURES OR IN THE ALTERNATIVE
A MOTION FOR AN EXTENSION OF DEADLINE IN THE SCHEDULING ORDER**

COMES NOW Defendant The Travelers Indemnity Company of Connecticut (hereinafter, “Defendant”), and pursuant to Local Rules 7.0 and 16.3, respectfully submits the following Reply in Support of its Motion to Strike Plaintiffs’ expert witness designations for failure to comply with Fed. R. Civ. P. 26(a)(2) and the Court’s April 2, 2019 Scheduling Order, or in the alternative, a motion for an extension of deadline in the scheduling order (Docs. 9, 43, 44). The Scheduling Order states, in relevant part:

“AMENDED SCHEDULING ORDER. The Court enters the following amendments to the scheduling order: Plaintiff shall designate expert witnesses by April 30, 2019; Defendant shall designate any expert witnesses by June 1, 2019. Dispositive Motions are due to be filed on or before August 15, 2019. Discovery shall be completed by September 15, 2019. Pretrial settings remain: Teleconference set for 10:00 a.m. on November 22, 2019. Pretrial Conference set for 10:00 a.m., December 6, 2019 at the United States District Courthouse in Kansas City. Trial remains set for 8:30 a.m., December 16, 2019 at the United States District Courthouse in Kansas City. See Pretrial filing deadlines in original Scheduling Order, Doc. 9. No requests to extend deadlines in the dispositive motion briefing will be granted. Signed on 4/2/19 by Chief District Judge Beth Phillips. This is a TEXT ONLY ENTRY. No document is attached. (Cordell, Annette) (Entered: 04/02/2019).”

(Doc. 44).

Plaintiffs concede that they did not timely serve their expert designations and reports on or before April 30, 2019 in accordance with this Court's Order. (*See* Doc. 51, ¶ 1, 3). Even at the time of this filing, Defendant has still not received Plaintiffs' retained expert witness, Kurt Kruger, Ph.D.'s, report. Defendant respectfully requests that the Court strike Plaintiffs' expert witness designations, including Kurt Kruger, Ph.D., from Plaintiffs' designations, or enter an Order requiring Plaintiffs to properly designate their expert witnesses, including Kurt Kruger, Ph.D., within ten (10) days of the Court's Order, and provide Defendant with thirty (30) days to designate its expert witnesses. Plaintiffs consent to an extension of time for Defendant to designate its expert witnesses. (*See* Doc. 51, ¶ 5).

Plaintiffs have provided no relevant excuse for failing to timely and fully designate their expert witnesses in accordance with this Court's Scheduling Order and the Federal Rules of Civil Procedure. Defendant notes that the dispositive motion deadline is in less than sixty (60) days; discovery closes in less than three (3) months; and the parties' trial setting is in less than six (6) months. Plaintiffs' failure to properly designate expert witnesses has caused an unnecessary delay in this litigation and will likely impact the parties' December 16, 2019 trial setting.

III. CONCLUSION

WHEREFORE defendant The Travelers Indemnity Company of Connecticut requests an Order of the Court striking Plaintiffs' Rule 26(a)(2) expert witness designations, or in the alternative, a motion for an extension of deadline in the scheduling order, and for such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

FRANKE SCHULTZ & MULLEN, P.C.

/s/ Christopher M. Harper

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy
of the foregoing was filed via the
court's electronic filing system, and
sent via e-mail on this 24th day
of June, 2019, to:

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